

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JONATAN SOCORRO-PROSPERO,

Plaintiff,

-against-

M BOOTH AND ASSOCIATES et al.,

Defendants.

23-cv-11319 (AS)

ORDER

ARUN SUBRAMANIAN, United States District Judge:

Plaintiff in this case failed to serve the complaint within 90 days. Dkt. 5. Plaintiff has not shown good cause for that failure. Dkt. 10. So under Federal Rule of Civil Procedure 4(m), the Court “must dismiss the action without prejudice ... or order that service be made within a specified time.” In deciding between these options, the Court considers “(1) whether any applicable statutes of limitations would bar the action once refiled; (2) whether the defendant had actual notice of the claims asserted in the complaint; (3) whether defendant attempted to conceal the defect in service; and (4) whether defendant would be prejudiced by extending plaintiff’s time for service.” *DeLuca v. AccessIT Grp., Inc.*, 695 F. Supp. 2d 54, 66 (S.D.N.Y. 2010). Factors one and three cut for Defendants while factors two and four cut for Plaintiff. *Compare* Dkt. 10, with Dkt. 12.

Without the factors definitively cutting one way, and because dismissing the complaint would simply lead to its refiling, the Court does not see any reason to push paper around this District. So the Court will not dismiss the case. Instead, Plaintiff must serve Defendants by **April 25, 2024**. Other deadlines in this case will not move, so the parties should note that a joint letter and case-management plan are also due that day. *See* Dkt. 3.

SO ORDERED.

Dated: April 18, 2024
New York, New York



ARUN SUBRAMANIAN
United States District Judge